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09/994,618	11/28/2001	Richard H. Weeks	7118	9254

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EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 06/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/994,618

Applicant(s)

WEEKS, RICHARD H.

Examiner

Angel R. Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-15 and 18-23 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

✓ Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 line 7-8, "the second use position", lacks antecedent basis. The Examiner does not know if this second use position is the same as the non-use position or if it's a different position.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-6, 9-15 and 18-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Reiker (US 6,291,768).

Regarding claim 1, Reiker discloses a mounting assembly (see figure 7), comprising: a junction box (130) including a top wall (14) and a downwardly extending side wall (18) defining a cavity therein; a fixture support (134) provided on the junction box (130), the fixture support (134) having a first use position (when the fixture support is attached to the box) and a first non-use position (when the fixture support is detached from the box or when is rotating); the fixture support (134) being movable about an axis (see figure 7) extending transversely relative to the side wall (18); and the fixture support being movable from the first use position to the first non-use position (see figure 7).

Regarding claim 2, Reiker discloses the mounting assembly (see figure 7), wherein: the fixture support (134) is rotatable about the axis between the first use position and the first non-use position (column 7 line 9-24).

Regarding claim 3, Reiker discloses the mounting assembly (see figure 7), wherein: a first fixture fastener (154) is provided on the fixture support (134), the first fixture fastener (154) being usable for securing a first size of fixture fastener when the fixture support is in the first use position (see figure 7).

Regarding claim 4, Reiker discloses the mounting assembly (see figure 7), wherein: the first fixture fastener (154) includes a female fastener (see figure 7).

Regarding claim 5, Reiker discloses the mounting assembly (see figure 7), wherein: the fixture support (134) includes a block (see figure 7).

Regarding claim 6, Reiker discloses the mounting assembly (see figure 7), wherein: the block (see figure 7) includes a first face and a second face (see figure 7);

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and the first face faces (where the fixture fastener is located) substantially outwardly away from the top wall (14) when the fixture support (134) is in the first use position (see figure 7).

Regarding claim 9, Reiker discloses a mounting assembly (see figure 7), comprising: a junction box (130) having a top wall (14) and a downwardly extending side wall (18) defining a cavity therein (see figure 7); a fixture support (134) attached to the junction box (130); a first fixture fastener (154) provided on the fixture support (134), the first fixture fastener (154) being sized for securing a first size of fastener (column 4 line 61-64); a second fixture fastener (148) provided on the fixture support (130), the second fixture fastener (148) being sized for securing a second size of fastener (column 4 line 61-64); and said fixture support (134) is movable between a use position (when the fixture is attached to the box) for the first fixture fastener (see figure 7) and a non-use position (when the fixture is released from the box or is rotating) for the first fixture fastener (see figure 7).

Regarding claim 10, Reiker discloses a mounting assembly (see figure 7), comprising: a junction box (130) including a top wall (14) and a side wall (18) defining a cavity therein (see figure 7); a fixture support (134) movably attached to the side wall (18); a first fixture fastener (154) provided on the movable support (134), the first fixture fastener (154) being sized for engaging a first size of fastener (column 4 line 61-64); and the fixture support (134) being movable between a use position (when the fixture is attached to the box) and a non-use position (when the fixture is released from the box

or is rotating), the first fixture fastener (154) being disposed for engaging a first fastener (see figure 7) when in the use position.

Regarding claim 11, Reiker discloses the mounting assembly (see figure 7) wherein: a second fixture fastener (148) is provided on the fixture support (40), the second fixture fastener (148) being sized for engaging a second size of fixture fastener ((column 4 line 61-64).

Regarding claim 12, Reiker discloses the mounting assembly (see figure 7) wherein: the size of the first fixture fastener (154) differs from the size of the second fixture fastener (148).

Regarding claim 13, Reiker discloses the mounting assembly (see figure 7), wherein: the first fixture fastener (154) includes a female fastener (see figure 7).

Regarding claim 14, Reiker discloses the mounting assembly (see figure 7), wherein: the fixture support (134) includes a block (see figure 7).

Regarding claim 15, Reiker discloses the mounting assembly (see figure 7), wherein: the block (see figure 7) includes a first face and a second face (see figure 7); and the first face (see figure 7) faces substantially outwardly away from the top wall (14) when the first fixture fastener (154) is in an use position.

Regarding claim 18, Reiker discloses a mounting assembly (see figure 7), comprising: a junction box (130) having a top wall (14) and a downwardly extending side wall (16) defining a cavity therein (see figure 7); a fixture support (134) attached to the junction box (130); a first fixture fastener (154) provided on the fixture support (134); a second fixture fastener (148) provided on the fixture support (134); a third fixture

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fastener (see figure 7) provided on the fixture support (134); and at least one of the first, second, and third fixture fasteners having a use position and a non-use position (see figure 7).

Regarding claim 19, Reiker discloses the mounting assembly (see figure 7), wherein: each of the first (154), second (148), and third fixture fasteners (see figure 7) has a use position (when the fixture support is attached to the box) and a non-use position (when the fixture support is detached from the box or when is rotating).

Regarding claim 20, Reiker discloses the mounting assembly (see figure 7), wherein: when the at least one fixture fastener (154) is in its use position, at least one of the fixture fasteners (148) is in a non-use position (see figure 7).

Regarding claim 21, Reiker discloses the mounting assembly (see figure 7), wherein: the first fixture fastener (154) is sized for securing a first size of fixture fastener (column 4 line 61-64); and one of the second (148) and third fixture fasteners (see figure 7) is sized for securing a second size of fixture fastener (column 4 line 61-64), the second size of fixture fastener differing from the first size of fixture fastener (column 4 line 61-64).

Regarding claim 22, Reiker discloses the mounting assembly (see figure 7), wherein: the fixture support (134) is movable relative to the junction box (column 7 line 9-24).

Regarding claim 23, Reiker discloses the mounting assembly (see figure 7), wherein: the fixture support (134) is rotatable relative to the junction box (column 7 line 9-24).

***Allowable Subject Matter***

3. Claims 7, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 7, 8, 16 and 17 are:

Regarding claim 7 is the inclusion therein in combination as currently claimed of the limitation the second face faces transversely to the top wall when the first fixture fastener is in the first use position.

Regarding claim 8 is the inclusion therein in combination as currently claimed of the limitation the second face faces transversely to the top wall when the first fixture fastener is in the second use position.

Regarding claims 16 and 17 is the inclusion therein in combination as currently claimed of the limitation the second face faces transversely to the top wall when the first fixture fastener is in its use position.

These limitations were found in claims 7, 8, 16 and 17, and are neither disclosed nor taught by the prior art of record, alone or in combination.



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**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carrier (US 6,170,685) discloses an electrical outlet box having a fixture support movable about an axis. Bordwell et al (US 5,824,952) discloses a ceiling fan outlet box.

5. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (703) 305-0853. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for after final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

May 23, 2002

 6/3/02

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